

अण्डमान तथा



निकोबार राजपत्र

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अण्डमान तथा निकोबार प्रशासन

ANDAMAN AND NICOBAR ADMINISTRATION

सचिवालय/SECRETARIAT

NOTIFICATION

Port Blair, dated the 3rd June, 2008.

No. 69/2008/F.No.3-425/2005-Labour.—In pursuance of sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Act No.14 of 1947) read with Notification No.LR-1(59)/55 dated 13th December, 1955 of the Govt. of India, Ministry of Labour and A&N Admn. Notification No. F.No.17-2/2007-Labour dated 4/10/2007, the Secretary (Lab), Andaman and Nicobar Administration, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair in the matter of an Industrial Dispute between the Management of Sen Sea Marine Pvt. Ltd., Port Blair and Shri P.C. Ommen Tharakan & Shri Anup Kumar Biswas raised by the Centre of Joint Trade Union Council over the alleged illegal termination from services of Shri P.C. Ommen Tharakan & Shri A.K.Biswas referred to the Industrial Tribunal for adjudication vide Administration's Notification No. 3-425/2005-Labour dated 25/08/2005.

IN THE COURT OF THE PRESIDING OFFICER LABOUR COURT ANDAMAN AND NICOBAR ISLANDS PORT BLAIR

Present: Shri N.K. Ghosal, Presiding Officer

I.D. (L.C.) Case No. 22 of 2005.

1. Shri P.C. Ommen Tharakan
2. Shri Anup Kumar Biswas

... First Party

Versus

The Management of Sen Sea Marine Pvt. Ltd.,
Port Blair

... Second Party

Wednesday the 12th day of December, 2007

AWARD

1. The Controversy under reference to be decided by the Court which is as follows:-

“Whether the action of Capt. Arnab Sen, Managing Director of M/s Sen Sea Marine Pvt. Ltd., Port Blair in terminating the services of Shri P.C. Ommen Tharakan and Shri A.K. Biswas with effect from 1.4.2003 without following the provisions of ID Act,1947 is legal and justified ? If so, to what relief the workmen concerned are entitled to?”

2. In the application it is pleaded that both the workmen viz. Shri P.C. Ommen Tharakan and Shri A.K. Biswas were appointed long before under the second party for doing clerical job, yet they were terminated from their services illegally overriding the right of permanent employees they had accrued by dint of their continuous service.

3. In the application it is also pleaded that no notice was served on them prior to their termination from service which is mandatory under the provisions of section 25-F, 25-G and 25-N of the Industrial disputes Act, 1947.

4. In the grounds it has also been introduced that they had approached to the second party for consideration of their case, but it was unheeded and subsequently the dispute was referred to the Conciliation Officer for settlement which was turned into futile and finally the reference has been made to this court.

5. In the application it is pleaded that they are the victims of the unscrupulous and capricious activities of the second party and for-as-much the termination is absolutely illegal and it deserves to be set aside and an award of their reinstatement with back wages and other service benefits should be proclaimed.

6. The second party did not come to contest this case finally ex parte evidence on affidavit was tendered by the first party together with the documents in order to substantiate their contention.

7. In the evidence echoing to the averments of the petition it is incorporated that both the workmen were appointed long days before and they were doing their job at a stretch yet they were terminated from their service, which the second party cannot do, and if it be made, to be declared as unjustified.

8. perused the documents, those are significant to fortify the case of the first party workmen. Indeed it has made it clear that they were in continuous service as permanent employees and eventually they have become competent to have an award of their reinstatement and indeed it has conferred on them by elapsation of time of their continuous service and as such their claim of their reinstatement is their prerogative upon recognition of which based on unrebutted evidence, I think an award can be made in terms of their prayer.

Hence,

AWARDED

that I.D. Case No. 22 of 2005 is allowed ex parte. The termination order of both the workmen viz. Shri P.C. Ommen Tharakan and Shri AK Biswas passed by the second party is wholly illegal and therefore, it cannot be sustained consequent upon declaration of the termination to be void, both the workmen will be reinstated into service and thereby the benefit of getting backwages will also be their entitlement.

Let this Award be forwarded to the Secretary (Labour), Andaman & Nicobar Islands for his information and due publication in the official gazette.

Given under my hand and seal of the court this the 12th day of December, 2007.

Typed at my dictation & corrected by me.

Sd/-
P.O.

Sd/-
(N.K. Ghosal)
Presiding Officer
Labour Court
Andaman and Nicobar Islands

By order of the Secretary (Labour),

Sd/-
(E.M. Ahamed)
Assistant Secretary (Labour).